

Dennis J. McLerran, Regional Administrator  
EPA, Region X  
Regional Administrator's Office, RA-140  
1200 6<sup>th</sup> Avenue, Suite 900  
Seattle, WA 98101

Dear Dennis:

Thank you for keeping an open line of communication regarding the Environmental Protection Agency's decision to conduct an assessment of the Bristol Bay Watershed. I am writing today about the "Outline for the Development of the EPA's Bristol Bay's Watershed Assessment." I appreciate the opportunity to transmit our thoughts on this issue.

For the record, I would like reiterate the position of the Pebble Limited Partnership (PLP) that any action under the Clean Water Act (CWA) section 404(c) should not be undertaken until PLP has formally initiated permitting for the Pebble Project and started the National Environmental Policy Act (NEPA) process. As a long standing advocate for responsible development of Alaska's resources, I have serious concerns about the long-term precedent an initiation of the 404(c) process by the EPA, prior to the submission of an application, could set for future activities in Alaska.

I have reviewed Senator Lisa Murkowski's letter to Administrator Jackson and concur with the range of issues and concerns she brought to the attention of the EPA, including her request that no action be taken until PLP is in the permitting process, as it would provide more confidence to Alaska stakeholders that "EPA's work on this matter is not pre-judging any specific decision that may ultimately confront the agency." Indeed, there are already questions of whether EPA's action to undertake its watershed assessment in the face of the significant and costly scientific work that has been undertaken in the field has already prejudiced future possible permit applications that PLP may elect to file in the future.

In reviewing the draft outline you provided, several questions have emerged that I respectfully request EPA address and consider before moving forward with the assessment and accompanying processes.

- Did the EPA make a formal determination to initiate this scientific assessment process? If so, please provide a copy of that determination to the Pebble



Partnership. If there is no formal written determination that states the rationale for the decision, please identify the statutory or regulatory basis for conducting such a scientific assessment.

- Please identify other instances in which EPA has conducted such an assessment.
- What methodology will the EPA use in identifying risks and threats through this process? Is there statutory guidance for this? How will "threats" be defined?
- If there are no established procedures or precedents for such a scientific assessment, what is the process EPA will use to design and establish how the assessment will be conducted?
- Without the benefit of reviewing a project's specific mitigation plans, which would be detailed as part of a permit application process on both a state and federal level, how will the EPA assess what actions will result in "adverse effect on municipal water supplies, shellfish beds and fishery areas, wildlife or recreational areas?" What are the standards that will be utilized in establishing this criteria?
- By what criteria will the EPA determine if the Bristol Bay salmon fishery is a one-of-a-kind, world class fishery? Will the EPA include reviews of Alaska's other salmon fisheries notably the Copper River, the Yukon River, the Kuskokwim River and the Cook Inlet Drainage?
- By what definition will the EPA determine existing literature is "relevant?"
- By what criteria will the EPA determine existing and potential risks to the Bristol Bay salmon fishery associated with large-scale development activities and how will the EPA define "large-scale development?" Will climate change be included in the risk identification process?
- How will the scientific peer review be conducted? Who will be part of the peer review? How will the peer review panel participants be selected? For instance, PLP's Environmental Baseline Document (EBD), which we will share with you later this year, will be about 20,000 pages in addition to the appendices with the raw data. This exhaustive document brings together the work of more than 500 independent scientists from more than 50 companies. How will this information be peer reviewed?
- How will the EPA ensure that the peer review is balanced? Will the EPA establish conflict of interest criteria for the peer review process? How will the EPA



determine what "existing science" is relevant to accept for review and what criteria will it utilize?

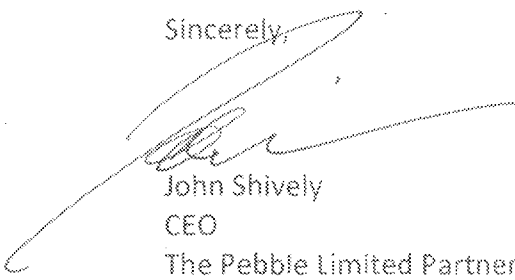
- How will EPA ensure this process will not conflict with NEPA or prejudice EPA's role in the NEPA process should the Pebble Partnership submit a permit application?
- Will the scientific assessment evaluate the impacts of other major users of the watershed including commercial fishing, tourism, transportation infrastructure, hunting and guide services? If not, why?
- What type of budget will be allocated for the scientific assessment? Has the EPA prepared a cost estimate for this endeavor? If so, please send that to PLP.
- In addition to risk, will the review look at the potential opportunities presented by development in the watershed?

I very much appreciate the EPA's efforts to make this process transparent. With that in mind, I respectfully request that the PLP be allowed to fully participate in the assessment. In order for us to meaningfully participate in this process we will need the answers to the questions I have raised above.

Once we learn more about the EPA's intended way forward with this assessment, we should discuss a schedule whereby we can engage with EPA to communicate our data and information.

I look forward to continuing this dialogue and appreciate your time and consideration.

Sincerely,



John Shively

CEO

The Pebble Limited Partnership

CC: The Honorable Sean Parnell, Governor of Alaska  
The Honorable Lisa Murkowski, United States Senator, Alaska  
The Honorable Mark Begich, United States Senator, Alaska  
The Honorable Don Young, United States Representative, Alaska

